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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re T.G., et al., Persons Coming Under  
the Juvenile Court Law.

B245219  
(Los Angeles County Super. Ct.  
No. CK92497)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

Plaintiff and Respondent,

v.

LORENA A.,

Defendant and Appellant.

APPEAL from the judgment and orders of the Superior Court of Los Angeles County, Mark A. Borenstein, Judge. Affirmed.

Neale B. Gold, under appointment by the Court of Appeal, for Defendant and Appellant.

John F. Krattli, County Counsel, James M. Owens, Assistant County Counsel, and Terry T. Truong, Deputy County Counsel, for Plaintiff and Respondent.

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Lorena A. (mother) appeals from the dependency court's judgment and orders of September 5, 2012, declaring her four children (the children) dependents of the court under Welfare and Institutions Code sections 360<sup>1</sup> and removing them from her custody. She contends substantial evidence does not support the jurisdictional findings or the order removing them from her custody. We conclude substantial evidence supports the finding of jurisdiction and the removal order. Accordingly, we affirm.

### **STATEMENT OF FACTS AND PROCEDURE**

Son, born in 2003 (son), and three daughters, born in 2005, 2006, and 2008, are the children of mother and T.G. (father),<sup>2</sup> who were married. Mother filed for divorce in 2008 and was granted primary physical custody of the children by the family court. Father was granted visitation. The parents screamed at each other during visitation exchanges until the exchanges were done at the police station. Each parent accused the other of abusing and neglecting the children and spoke negatively about one another in front of the children. Mother accused father of physically assaulting her and vandalizing her house. Mother told son to call 911 if father tried to harm him. Mother called the police in the children's presence and shouted at them to arrest father.

In 2008, mother alleged in a family court mediation session that father physically abused the children, which caused a report to be made to the child abuse hotline and son to be interviewed by a social worker from the Department of Children and Family Services (Department). The Department concluded the allegation was unfounded. In 2009, mother took a daughter to the hospital for treatment of a small red bump on her scalp, stating the children told her the daughter had bumped her head while in father's care. The injury was determined to be an infected insect bite. Mother subsequently

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<sup>1</sup> All further statutory references are to the Welfare and Institutions Code, unless otherwise indicated.

<sup>2</sup> Father was found to be the presumed father of the children.

claimed the injury was from her daughter falling and hitting her head as a result of being drugged by father. In 2010, mother took the children to the hospital with a report father had drugged the children with sleep medication. Mother reported the children always returned from visits with father with complaints of illness and pain. No drugs were detected in the children's systems. The Department's investigation was inconclusive, and the referral was closed because the situation was stable.

All of these reports coincided with upcoming dates in the family court proceedings. The children were interviewed about the allegations by medical personnel and social workers. (CT 45, 47, 121-122)~

On February 14, 2012, one week before the date scheduled for a hearing on mother's request for a domestic violence restraining order, mother brought son to the hospital emergency room with son reporting that father punched him in the arm, causing son to fall and hurt his arm. Father denied hitting son. The emergency room found swelling and tenderness of the right wrist and arm, but there was no fracture, and the swelling was not hot or red. Son was interviewed by medical personnel, a social worker, and the police. Mother obtained a temporary restraining order, which prohibited father from visiting the children, and a child abuse report was made to the Department.

The children were interviewed by the social worker concerning son's injury, and they gave varying reports about how the injury occurred and whether father hit them. When asked about his arm, son said father broke it when he hit it, and it was not in a cast because son put it back together himself. The principal at son's school reported mother and the children told her five different stories about how the injury occurred, including son telling her he injured the arm playing football. "[I]t appears as though they are trying a different angle to make allegations against father[.]" A deputy district attorney stated, "she remembered the children from the previous allegations when mother . . . claims that father was drugging the children. . . . [T]he children have very well scripted responses. . . . [T]he children appear to have memorized the same sentence and repeat the same solid response, but that when asked anything else about the allegations, the children were unable to provide the same consistent, convincing and solid responses . . . . [S]omething

does not seem right about mother[.]”

Son felt unhappy when his parents fought. He took mother’s side “because she is my mom and I came out of her stomach not my dad’s.” He revealed mother told him her life would be better if no one fought with her. When her parents fought, the oldest daughter felt “sad and like I have to take sides, but I always take my mom’s side because she gives me money and my dad gives me timeouts. . . . I have been crying about their fights for eight years.”

On April 12, 2012, a first amended section 300 petition was filed alleging mother emotionally abused the children by making accusations that father abused and neglected the children and failed to protect the children from the emotional abuse.<sup>3</sup>

On May 22, 2012, the children were detained from mother and released to father. The children appeared to be content to go and live with father. They were happy and thrived in his home. Son no longer told stories about being abused by father. Mother did not call or visit during the first two weeks. On June 8, 2012, mother was granted visits twice a week. During visits, she probed the children about the care they received in father’s home, was preoccupied with finding signs of abuse and neglect, and reacted with alarm, which made the children uncomfortable.

Mother continued to be consumed with the belief the children suffered alarming injuries and were neglected while staying with father. She insisted the children be interviewed by medical personnel about the injuries and neglect. She denied she was the one accusing father. She maintained father twice returned the children to her after visits in an injured condition. She denied she had a custody dispute with father.

On September 5, 2012, the children were declared dependents of the court based on sustained allegations under section 300, subdivision (c), as to mother, that the children suffered or were at substantial risk of suffering serious emotional damage from mother’s

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<sup>3</sup> The original section 300 petition had been filed on March 12, 2012, alleging father physically abused the children. The first amended petition did not contain an allegation that father physically abused the children.

conduct, in that “mother . . . has been engaged in a custody dispute with [father], to the extent that it has created a detrimental home environment for the children by emotionally abusing the children which includes, but is not limited to, [mother] making repeated accusations that the father is abusing and/or neglecting the children[,] mother subjecting the children to numerous interviews regarding possible abuse and neglect by the children’s father, taking the children for repeated medical checks for possible abuse and neglect, and encouraging the children to report the alleged abuse and neglect to mandate reporters, law enforcement, and child protective agency employees. Such conduct by [mother] places the children at substantial risk of suffering serious emotional harm and damage.” Custody was taken from mother, the children were placed with father, and mother was granted reunification services. Mother was ordered to attend Parents Beyond Conflict and individual counseling, and she was awarded monitored visits twice a week for one and a half hours in a public setting or at the Department’s office.

## **DISCUSSION**

### ***Substantial Evidence***

#### **A. Substantial Evidence Supports the Allegation Mother’s Conduct Places the Children at Risk of Emotional Harm**

Mother contends substantial evidence does not support the finding under section 300, subdivision (c) that her conduct places the children at risk of emotional harm. We disagree with the contention.

In determining whether an order is supported by substantial evidence, “we look to see if substantial evidence, contradicted or uncontradicted, supports [it]. [Citation.] In making this determination, we draw all reasonable inferences from the evidence to support the findings and orders of the dependency court; we review the record in the light most favorable to the court’s determinations[.]” (*In re Heather A.* (1996) 52 Cal.App.4th

183, 193.) Issues of fact and the credibility of witnesses are questions for the trial court. (*In re Carmaleta B.* (1978) 21 Cal.3d 482, 495.) “We do not reweigh the evidence or exercise independent judgment, but merely determine if there are sufficient facts to support the findings of the trial court.” (*In re Matthew S.* (1988) 201 Cal.App.3d 315, 321.) Thus, the pertinent inquiry is whether substantial evidence supports the finding, not whether a contrary finding might have been made. (*In re Dakota H.* (2005) 132 Cal.App.4th 212, 228.)

Section 300, subdivision (c) provides in pertinent part: “The child is suffering serious emotional damage, or is at substantial risk of suffering serious emotional damage, evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, as a result of the conduct of the parent . . . .”

“Section 300(c) extends both to a child who is suffering serious emotional damage, and a child who is at substantial risk of suffering serious emotional damage.” (*In re A.J.* (2011) 197 Cal.App.4th 1095, 1104-1106 [child was at risk of suffering serious emotional harm from mother’s false reports father physically abused the child and mother, child’s exposure to mother’s harassment and disparagement of father, evidence the child was currently suffering emotionally harm, and mother’s denial of her role].)

“[T]he question under section 300 is whether circumstances *at the time of the hearing* subject the minor to the defined risk of harm.” (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 824.)

The record contains evidence mother repeatedly accused father, in the children’s presence, of physically abusing and neglecting the children. She made outcries over conditions that were not injuries, raised the spectre of abuse where there was none, and insisted the children repeat her stories of abuse to medical personnel. She subjected the children to trips to the emergency room and to medical examinations regarding the alleged abuse. Her obsession with the idea the children were at risk of harm in father’s care caused the children to have to endure questioning by numerous social workers, law enforcement personnel, and medical personnel. Her preoccupation with finding signs of abuse by father, and her alarmed reactions, made the children uncomfortable. At the time

of the hearing on the petition, mother continued to be consumed by her belief the children were abused and neglected in father's care, and she continued to deny her behavior was emotionally abusive. She denied she was the one accusing the father. It is reasonable to infer from the foregoing that the children are at substantial risk of suffering "serious emotional damage, evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior." (§ 300, subd. (c).)

In contending her conduct was a reflection of a genuine concern about her children's welfare, not emotional abuse, mother reargues the evidence. We will not reweigh the evidence. Our role is to determine whether substantial evidence supports the finding. In this case, ample substantial evidence supports the finding.

**B. We Need Not Decide Whether Mother's Conduct Endangers the Children Under Section 300, subdivision (b)**

Mother contends substantial evidence does not support the finding her conduct placed the children at risk of physical harm under section 300, subdivision (b).<sup>4</sup> We need not decide the contention. "When a dependency petition alleges multiple grounds for its assertion that a minor comes within the dependency court's jurisdiction, a reviewing court can affirm the juvenile court's finding of jurisdiction over the minor if any one of the statutory bases for jurisdiction that are enumerated in the petition is supported by substantial evidence. In such a case, the reviewing court need not consider whether any or all of the other alleged statutory grounds for jurisdiction are supported by the evidence." (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 451.) Here, dependency court jurisdiction over the children under section 300, subdivision (c) is supported by mother's conduct, and mother does not identify any consequence to her from the challenged

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<sup>4</sup> Section 300, subdivision (b) describes in pertinent part a child who has suffered, or is at substantial risk of suffering, "serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child . . . ."

finding. Therefore, we decline to review whether section 300, subdivision (b) constitutes an additional ground for jurisdiction.

### **C. The Removal Order is Supported by Substantial Evidence**

Mother contends it was an abuse of discretion to order the children removed from her custody. We disagree with the contention.

“‘The juvenile court has broad discretion to determine what would best serve and protect the child’s interest and to fashion a dispositional order in accordance with this discretion. [Citations.] The court’s determination in this regard will not be reversed absent a clear abuse of discretion. [Citation.]’ [Citation.]” (*In re Corrine W.* (2009) 45 Cal.4th 522, 532.) “‘The appropriate test for abuse of discretion is whether the trial court exceeded the bounds of reason. When two or more inferences can reasonably be deduced from the facts, the reviewing court has no authority to substitute its decision for that of the trial court.’ [Citations.]” (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318-319.) “[W]hen a court has made a custody determination in a dependency proceeding, “‘a reviewing court will not disturb that decision unless the trial court has exceeded the limits of legal discretion by making an arbitrary, capricious, or patently absurd determination [citations].’” [Citations.]” (*Id.* at p. 318.) Where substantial evidence supports the order, there is no abuse of discretion. (*In re Daniel C. H.* (1990) 220 Cal.App.3d 814, 839.)

Section 361 provides in pertinent part: “(c) A dependent child may not be taken from the physical custody of his or her parents or guardian or guardians with whom the child resides at the time the petition was initiated, unless the juvenile court finds clear and convincing evidence[:] [¶] (1) There is or would be a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minor if the minor were returned home, and there are no reasonable means by which the minor’s physical health can be protected without removing the minor from the minor’s parent’s . . . physical custody.”



“A removal order is proper if it is based on proof of parental inability to provide proper care for the minor and proof of a potential detriment to the minor if he or she remains with the parent. [Citation.] The parent need not be dangerous and the minor need not have been actually harmed before removal is appropriate. The focus of the statute is on averting harm to the child. [Citation.]’ [Citation.]” (*In re Miguel C.* (2011) 198 Cal.App.4th 965, 969.) A risk of emotional harm is sufficient to justify removal under section 361, subdivision (c). (*In re H.E.* (2008) 169 Cal.App.4th 710, 721 (*In re H.E.*)).<sup>5</sup>

The family was evaluated under Evidence Code section 730 by psychologist Chuck Leeb for the dispositional hearing. Son turned away from Leeb and would not make eye contact. Although he stated dad hit him “a lot[,] . . . [h]is statements were made looking straight ahead, tone of voice was a monotone, and body was rigid. The response it elicited in me was watching a third grader delivering lines at a school play who was suffering from stage fright.” Mother stated father’s attacks on her during her most recent pregnancy caused her to be hospitalized five times, and the children “always returned in horrible, horrible condition severely beaten by father’s parents[.]” When mother returned to the waiting room after her interview, the children “fell silent and looked at her. She spread her arms wide and they gathered around her saying they had missed her. [Son] stood a bit outside the gathering and watched [Leeb] the whole time with no expression on his face. The scene felt staged.” In May 2012, mother sent father a message that was a “two and a half page venomous spewing of pure rage that [had] no connection to the original message sent [to her] by father[.]”

Leeb observed mother displayed “a lack of coherence of mind. Mother presents with an attachment style identified as Unresolved/disorganized. In any discussion that

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<sup>5</sup> *In re H.E.* is a decision by the First Appellate District, Division Two. An earlier opinion by the same court, *In re Isayah C.* (2004) 118 Cal.App.4th 684, 698, held that removal under section 361, subdivision (c) requires physical, not just emotional, harm. The court in *In re H.E.* “limit[ed] the holding to an unremarkable deduction that, where the subdivision requires risk of emotional or physical harm and there is no risk of emotional harm, there must be risk of physical harm.”

can be interpreted as a negative to her sense of self, mother shows a striking lapse in the monitoring of reasoning and logic. [¶] Mother's sense of self is extremely fragile and insecure. . . . [She was unable] to regulate her own emotions, particularly anxiety. She is unable to recognize negative emotions or behaviors in herself. . . . [S]he projects those negative feelings and behaviors on to others." "Mother's personality structure is along the severe end of the Borderline Spectrum. . . . [¶] . . . Mother is not credible and her behaviors . . . may certainly alienate the children. Mother's behavior at times borders on paranoid and delusional thinking with little ability to access logic. She needs to win. [¶] Mother has a long history of flaunting court orders, rules, and any structure imposed on her. She will continue to do this as there are no consequences on her behavior. She will attempt to subdue anyone she views as an enemy, which is anyone who does not agree with her totally. She is not above filing false reports of abuse against father . . . ."

Family members' versions of whether father physically abused the children were inconsistent, there was no evidence to support the allegations of abuse, and the children's responses appeared orchestrated by mother.

There was evidence mother was obsessed with proving the children were at risk in father's care, coached the children to make false reports of abuse, denied her own conduct was emotionally abusive, and was not willing to change. It is reasonable to infer from the Evidence Code section 730 evaluation that mother will continue on her crusade. This is substantial evidence supporting the finding under section 361, subdivision (c)(1) that the children are at substantial risk of suffering emotional harm in her custody, and there are no reasonable alternative means to protect them, without removal. (§ 361, subd. (c).)

The dependency court's order removing the children from mother's custody was not an abuse of discretion.

## **DISPOSITION**

The judgment and orders are affirmed.

KRIEGLER, J.

We concur:

TURNER, P. J.

MOSK, J.